IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 1049 of 1995

Between:

Suddala Sathaiah S/o.Narsaiah, Attender,
R/o. Bellampally,C/o.G.Prakash Chary Jr.Asst., Forest Range Office,BPA
Bellampally,
Adilabad District.

..... PETITIONER

AND

1 The Chief General Manager (T & E) Singareni Collieries Co.Ltd.,
Kothagudem Khammam Dist.
2 The General Manager (P), Singareni Collieries Co.Ltd.,
Bellampally Adilabad.
3 The Head-Master, Singareni Collieries High School,
Bellampally Adilabad.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus by duly declaring the action of the respondent for not allowing the petitioner to attend his duties as Attender in Singareni Collieries High School, Bellampally even after submitting leave applications from time to time and even after producing joining report along with the Medical fitness certificate on 24-5-91 as illegal, arbitrary and violative of Art.14 and 16 of the Constitution of India and violative of principles of natural justice and consequently direct the respondents herein to allow the petitioner to attend his duties as Attender in Singareni Collieries High School, Bellampally by granting extra-ordinary leave or any leave which the petitioner is entitled as per the conditions of service Rules from 6-2-1990 to 24-5-1991.

Counsel for the Petitioner: MR.V.RAVI KIRAN RAO

Counsel for the Respondents.: MR.K.SRINIVASAMURTHY, Standing Counsel for Singareni Collieries.

The Court made the following :

ORDER:

The writ petition is filed seeking direction to the respondents to allow the petitioner to attend the duties as Attender in Singareni Collieries High School, Bellampally and for consequential relief.

2. It is the case of the petitioner that he was appointed as Attender in the Singareni Collieries High School, Bellampally on 21.7.1987 and he went on leave for 3 (three) days from 02.02.1990 to 05.02.1990 and the same was sanctioned. Thereafter, the leave was extended on medical grounds. But however, after completing the medical leave, he reported for duty on 24.5.1991, but he was refused to be taken in service. Inspite of his best efforts, he could not get any positive response from the management and therefore he filed the present writ petition seeking appropriate directions.

3. In the counter filed by the management, it is stated that the petitioner was absent and did not report for duty at all. It is also stated that the allegation of the petitioner that he reported for duty on 24.5.1991 was not correct and he never approached the authorities at any point of time. Hence, it is submitted that the name of the petitioner was struck of from the rolls and he is no more in service.

4. The issue that arises for consideration is whether the action of the respondents in refusing admission of the petitioner to the duty is justified.

5. Admittedly, the petitioner worked as Attender and he went on leave for 3 (three) days initially and thereafter it was extended. After medical treatment, he reported for duty and he was refused entry and the same was also intimated by the Head Master of the school to the management and sought for instructions from the authorities. For the reasons best known to them, no directions were issued. In fact, the Head Master in his letter dated 03-01-1992 has clearly stated as follows:

> "This is to inform you that Sri S.Sathaiah, Attender of S.C. High School, Bellampally joined in the School on 8-9-1987. He completed his probation period successfully for one year from the date of joining of the school i.e., 8-9-1987.

He was on Rolls up to 1-2-1990. Then he went on casual leave from 2-2-1990 to 5-2-1990 with the sanction of the then Head Master. Then he went to Hyderabad. There he was fallen sick. Dr.Phani Kumar, Anand Nagar, Hyderabad advised him to take rest for a period of one and half months.

Sri S. Sathaiah, Attender of S.C.High School, Bellampally was under medical care from 2-2-1990 to 24-5-1991. After verifying the health of the incumbent, the Civil Assistant Surgeon had issued a medical fitness certificate to resume duty from 25-5-1991 onwards.

Later, the incumbent submitted an application on 20-5-1991 for granting permission to take him into duty on the basis of medical certificate issued by the Civil Assistant Surgeon, Bellampally dt.21-5-1991.

Since then, the incumbent approaching the Management through his requested applications for many times to take him into school duties.

After my enquiry, I came to know that he was not well during the period from 2-2-1990 to 24-5-1991. Moreover, the incumbent has four daughters. His mother is also depending on him completely as his father was expired on 1-10-1990."

Therefore, it is clear that the petitioner reported for duty with medical fitness certificate and he was unduly denied the entry into service. It is also to be noted that no charges were framed nor any disciplinary enquiry was conducted thereafter. Eventhough, the management stated that his name was struck off from the rolls of the management; no such order has been produced. Under those circumstances, it has to be necessarily declared the action of the management is illegal and arbitrary.

6. Accordingly, the writ petition is allowed directing the respondents to permit the petitioner to join duty as Attender in Singareni Collieries High School, Bellampally forthwith. However, he is not entitled for the wages for the interregnum period from 25.5.1991 till the date of reinstatement and the said period shall, however, be counted as continuous service for the purpose of terminal benefits. The petitioner shall be allowed to join duty within a period of 4 (four) weeks from the date of receipt of this order.

G.BIKSHAPATHY,J

Date: 02nd December 2004.

Note:

C.C. one week.

/B.O./

Chvn/BSB

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday,

the Second day of December 2004.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chief General Manager (T & E) Singareni Collieries Co.Ltd.,
Kothagudem Khammam Dist.
2 The General Manager (P), Singareni Collieries Co.Ltd.,
Bellampally Adilabad.
3 The Head-Master, Singareni Collieries High School,
Bellampally Adilabad.

4. Two C.D.copies.